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14 sued as Bank of America Corporation]

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 HARVEST LOGISTICS LLC,

18 Plaintiff,

19 vs.

20 BANK OF AMERICA CORP., dba
21 BANK OF AMERICA, N.A.; and
22 DOES 1-10, inclusive,

23 Defendants.

24 Case No. 2:24-cv-08188-JLS (PVCx)

25 **STIPULATED PROTECTIVE
26 ORDER FOR THE PRODUCTION
27 AND EXCHANGE OF
CONFIDENTIAL INFORMATION**

28 This matter comes before the Court by stipulation of plaintiff HARVEST
LOGISTICS LLC (“Plaintiff”), and defendant BANK OF AMERICA, N.A.
erroneously sued as Bank of America Corp., dba Bank of America, N.A.,
 (“Defendant”), for the entry of a protective order limiting the review, copying,
 dissemination and filing of confidential and/or proprietary documents and
 information to be produced by either Plaintiffs or Defendants (each a “Party” and
 collectively “Parties”) and their respective counsel or by any non-party in the course
 of discovery in this matter to the extent set forth below (the “Stipulation and
 Order”); and the parties, by, between and among their respective counsel, having

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1 stipulated and agreed to the terms set forth herein, and good cause having been shown;

2 **IT IS HEREBY ORDERED THAT:**

3 1. **Purpose.** A Receiving Party may use Protected Material, as defined
4 below, that is disclosed or produced by another Party or by a non-party in
5 connection with this case only for prosecuting, defending, or attempting to settle this
6 litigation *Harvest Logistics LLC vs. Bank of America Corp, dba Bank of American*
7 *N.A.*, Central District of California case number 2:24-cv-08188. Such Protected
8 Material may be disclosed only to the categories of persons and under the conditions
9 described in this Protective Order.

10 2. **Definitions.** As used herein:

11 (a) “Confidential Information” shall mean all Discovery Material, and all
12 information contained therein, and other information designated as
13 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL,” to the extent that the Party
14 or non-party designating the Discovery Material as “CONFIDENTIAL,” or
15 “HIGHLY CONFIDENTIAL,” in good faith reasonably believes that such
16 Discovery Material contains non-public information, confidential information, trade
17 secrets, proprietary business information, competitively or commercially sensitive
18 information, nonpublic personal information within the meaning of the Gramm-
19 Leach-Bliley Act (15 U.S.C. § 6801) or similar applicable federal, state or local
20 privacy protective laws and/or “consumer reports” within the meaning of the Fair
21 Credit Reporting Act (15 U.S.C. § 1681a) (collectively, the “Acts”), or other
22 information, the disclosure of which would, in the good faith judgment of the
23 Producing Party (defined below) be detrimental to the conduct of that Party’s
24 business or the business of any of the Party’s customers or clients, as well as any
25 information copied or extracted therefrom, plus testimony, conversations, or
26 presentations by Parties or counsel to or in court or in other settings that might
27 reveal Confidential Information.

1 (b) "Producing Party" shall mean the Party or non-party producing
2 Confidential Information in connection with this Litigation, including in
3 depositions, document productions or otherwise, or the Party or non-party asserting
4 the confidentiality of such material.

5 (c) "Receiving Party" shall mean the Party or non-party receiving
6 Confidential Information in connection with this Litigation, including in
7 depositions, document productions or otherwise.

8 (d) “Protected Material” means any Discovery Material that is designated
9 as “CONFIDENTIAL” or ‘HIGHLY CONFIDENTIAL,’ as provided for in this
10 Order, as well as any information copied or extracted therefrom, as well as all
11 copies, excerpts, summaries, or compilations thereof, plus testimony, conversations,
12 or presentations by the Parties or their counsel in Court or in any other setting that
13 might reveal such information. Protected Material shall not include materials that
14 show on their face they have been disseminated to the public by the designating
15 party.

16 3. Scope.

17 (a) Discovery Material shall be used solely for the purposes of this
18 Litigation, including its prosecution, defense, resolution or settlement, and shall not
19 be used for any purpose whatsoever outside the context of this Litigation. Nothing in
20 this Stipulation and Order relieves the Parties from any obligation in existence prior
21 to the entry of this Stipulation and Order to maintain the confidentiality of
22 documents, information, and communications previously provided or to be provided
23 to the Parties in connection with this Litigation.

24 (b) This Stipulation and Order has no affect upon, and shall not apply to,
25 the Parties' use of their own Confidential Information for any purpose. Nothing
26 herein shall impose any restriction on the use or disclosure by a Party of documents,
27 materials or information designated as Confidential Information that has been
28 obtained lawfully by such party independently of the proceedings in this Litigation.

1 4. Non-Disclosure. This Stipulation and Order is applicable to the Parties
2 and any non-parties who use the provisions of the Stipulation and Order by
3 designating Discovery Material as “CONFIDENTIAL,” or “HIGHLY
4 CONFIDENTIAL,” and the representatives, experts and employees of the Parties or
5 non-parties. This Stipulation and Order shall not be used, in any manner or form,
6 direct or indirect, as evidence in any trial or any hearing, or referred to in any trial or
7 any hearing, save and except a hearing that involves issues related to the
8 enforcement or interpretation of any provision of this Stipulation and Order.

9 5. Designation of Confidential Information.

10 (a) Any Producing Party may designate Discovery Material as
11 “confidential,” by affixing the notation “CONFIDENTIAL” on the document,
12 making a statement on the record of a deposition as to the portions of the deposition
13 to be designated as confidential, providing written communication to the respective
14 undersigned counsel for the parties hereto, or by other appropriate means. Any
15 Producing Party may, in the alternative, designate Discovery Material as “highly
16 confidential” by affixing the notation “HIGHLY CONFIDENTIAL” on the
17 document, making a statement on the record of a deposition as to the portions of the
18 deposition to be designated highly confidential, providing written communication to
19 the respective undersigned counsel for the parties hereto, or by other appropriate
20 means. Any summary, compilation or copy of Discovery Material that has been
21 designated as Confidential Information shall be treated the same as the underlying
22 document or thing as provided by this Stipulation and Order. The designation shall,
23 wherever practicable, be made before or at the time of production or disclosure,
24 except in the case of depositions, which shall be designated as set forth in subsection
25 (b) of this paragraph.

26 (b) All depositions and transcripts of any testimony given at a deposition
27 shall presumptively be treated as Confidential Information and subject to this
28 Stipulation and Order during the deposition and for a period of thirty (30) days after

1 a transcript of said deposition is received by counsel for each of the Parties. At or
2 before the end of such thirty (30) day period, the deposition, or pages thereof, may
3 be designated as Confidential Information by any Party. If any deposition or pretrial
4 testimony is designated as Confidential Information, the Producing Party shall direct
5 the court reporter to affix an appropriate confidentiality legend to the deposition
6 transcript's first page and all portions of the transcript containing Confidential
7 Information. Any Party may challenge the designation by following the procedure
8 set forth in Paragraph 8 below.

9 6. Designation of Highly Confidential Information. A Producing Party
10 may also designate Discovery Material as "Highly Confidential Information." This
11 designation shall signify that (i) at the time of the designation the Discovery
12 Material contains or constitutes trade secrets or confidential business or financial
13 information, (ii) there is a substantial and imminent risk that absent such
14 designation, its receipt by the Receiving Party could cause competitive and/or
15 economic harm to the Producing Party, and (iii) such Discovery Material would not
16 otherwise be adequately protected under the procedures set forth herein for
17 "Confidential Information." The provisions of this Stipulation and Order, including
18 all usage, dissemination, and disclosure limitations, shall be applicable to "Highly
19 Confidential Information" in the same manner as "Confidential Information," except
20 that notwithstanding any other provision of this Stipulation and Order, no disclosure
21 of Highly Confidential Information may be made to any persons other than (1) a
22 Party's in-house and external counsel and the paralegals and support personnel
23 working for such counsel, (2) experts retained by a Party or a Party's external
24 counsel, and (2) the Court and Court personnel, if filed in accordance with
25 paragraph 13 hereof. Disclosure to in-house counsel shall be limited to in-house
26 counsel providing legal advice in connection with this Litigation, and Highly
27 Confidential Information may not be disclosed to any other officers, directors,
28 employees, or agents of a Party, including other in-house counsel. Nothing in this

1 paragraph shall preclude counsel from giving advice to his or her client in this
2 Litigation that includes a general evaluation of Highly Confidential Information,
3 provided that counsel shall not disclose the contents of any Highly Confidential
4 Information contrary to the terms of this Stipulation and Order.

5 7. Procedure for Handling Legal Demands for Confidential Information.

6 (a) If a Receiving Party is served with a subpoena, document demand or
7 other request under applicable federal or state law (collectively, a “Demand”), and
8 the Discovery Material sought by the Demand was produced or designated as
9 Confidential Information by someone other than the Receiving Party, the Receiving
10 Party shall give written notice by electronic transmission, within five (5) business
11 days of receipt of such Demand, to the Producing Party who produced or designated
12 the material as Confidential Information.

13 (b) The Receiving Party shall not produce any of the Producing Party’s
14 Confidential Information, unless otherwise Court-ordered or required by law, for a
15 period of at least ten (10) business days after providing the required notice to the
16 Producing Party.

17 (c) If, within ten (10) business days of receiving such notice, the Producing
18 Party gives notice to the Receiving Party subject to the Demand that the Producing
19 Party opposes production of its Confidential Information, the Receiving Party shall
20 object to the Demand, citing this Stipulation and Order, and shall not thereafter
21 produce such Confidential Information, except as Court-ordered or required by law.
22 The Producing Party shall be responsible for pursuing any objection to the requested
23 production, including moving to quash the Demand and/or seeking an additional
24 protective order. The Receiving Party agrees to cooperate with the Producing Party
25 in resisting the Demand.

26 (d) Nothing herein shall be construed as requiring the Receiving Party or
27 anyone else covered by this Stipulation and Order to challenge or appeal any order
28 requiring production of Confidential Information covered by this Stipulation and

1 Order, or to subject the Receiving Party to any penalties for non-compliance with
2 any legal process or order for failure to comply with a Demand, or to seek any relief
3 from this Court in connection with obligations imposed by a Demand.

4 (e) In the event that Confidential Information is produced to an entity that
5 is not bound by this Stipulation and Order in response to a Demand, the Parties to
6 this Stipulation and Order shall continue to treat such Discovery Material in
7 accordance with the designation as Confidential Information.

8 8. Judicial Intervention. A Party that elects to press a challenge to a
9 “CONFIDENTIAL” designation after considering the justification offered by the
10 Producing Party may file and serve a motion pursuant to the Federal Rules of Civil
11 Procedure and any other applicable local or court rules, as well as the procedures
12 governing the filing of Confidential Information with the Court (set forth below)
13 that generally identifies the challenged material and sets forth in detail the basis for
14 the challenge.

15 9. Subpoenas and Legal Demands for Confidential Information to Non-
16 Parties. All documents called for in a Demand that is served by a Party to a non-
17 party, and all documents that are otherwise produced by a non-party without any
18 Demand, shall be presumed designated as “CONFIDENTIAL” pursuant to this
19 Stipulation and Order and treated as such, unless otherwise agreed by the Parties or
20 ordered by the Court. The presumption and any designation by a non-party pursuant
21 to this paragraph expires thirty (30) days after all Parties have received the third-
22 party production unless, within that time, a Party designates the documents pursuant
23 to this Stipulation and Order.

24 10. Failure to Designate Discovery Materials as Confidential Information.
25 The unintentional failure by a Producing Party to designate Discovery Material with
26 the correct “CONFIDENTIAL” designation shall not waive any such designation. If
27 the Producing Party notifies all Receiving Parties of an unintentional failure to
28 designate materials as “CONFIDENTIAL,” the Producing Party shall reproduce the

1 Discovery Material with the correct “CONFIDENTIAL” designation within ten (10)
2 business days of the Producing Party’s notification to the Receiving Party. Upon
3 receiving the Discovery Material with the correct “CONFIDENTIAL” designation,
4 the Receiving Parties shall destroy all Discovery Material that was identified as
5 incorrectly designated. A Receiving Party shall not be in breach of this Stipulation
6 and Order for any use of such unintentionally non-designated or inadvertently mis-
7 designated Discovery Material before the Receiving Party receives notice of the
8 inadvertent failure to designate. Once a Receiving Party has received notice of the
9 unintentional failure to designate pursuant to this provision, the Receiving Party
10 shall treat such Discovery Material at the appropriately designated level pursuant to
11 the terms of this Stipulation and Order.

12 11. Use or Disclosure of Confidential Information. Except with the prior
13 written consent of the Producing Party, or by Order of the Court, no person or entity
14 may use, disclose or permit the use or disclosure of and Discovery Material
15 designated “CONFIDENTIAL” to any person or entity other than the following:

16 (a) The Court and Court personnel, including a Jury or any Jurors in this
17 Litigation.

18 (b) Counsel to the Parties in this action, in-house attorneys of the Parties,
19 and all outside attorneys retained by the Parties to consult on this Litigation, and
20 their respective partners, associates, clerks, legal assistants, stenographic and
21 support personnel, and vendors retained by such attorneys to provide litigation
22 support services in this litigation, who are directly assisting such counsel in the
23 conduct of this Litigation, are under the supervision or control of such counsel, and
24 who have been advised by such counsel of their obligations hereunder.

25 (c) Personnel of Plaintiffs or Defendants actually engaged in assisting
26 counsel in the conduct of this Litigation and who have been advised of their
27 obligations hereunder.

1 (d) Former personnel of Plaintiffs or Defendants actually engaged in
2 assisting counsel in the conduct of this Litigation, and the counsel for said former
3 personnel, provided that before any Confidential Information is disclosed, the
4 disclosing Party shall request that former personnel and their counsel, if applicable,
5 execute a written agreement, in the form attached as Exhibit A hereto (the
6 “Confidentiality Undertaking”), to comply with and be bound by the Stipulation and
7 Order’s terms. If the former personnel or their counsel refuse to execute the
8 Confidentiality Undertaking, then they shall not be furnished with Confidential
9 Information.

10 (e) Any person indicated on the face of a document to be the author,
11 addressee, or a copy recipient of the document, or as to whom there has been
12 deposition or trial testimony that the person was the author or a recipient of the
13 document, provided that the only Confidential Information that may be furnished,
14 shown, or disclosed to said person shall be the documents for which there is
15 evidence that said person was the author or a recipient.

16 (f) Deposition and trial witnesses, and attorneys for witnesses, in this
17 action to whom disclosure is reasonably necessary provided: (1) the deposing party
18 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
19 will not be permitted to keep any Protected Material unless they sign a copy of
20 Exhibit A, unless otherwise agreed by the Producing Party or ordered by the court.

21 (g) Experts (and their necessary support personnel) retained by, or at the
22 direction of, counsel for a Party for the purpose of advising and assisting such
23 counsel in the trial, settlement, or resolution of this Litigation; provided, however,
24 that such expert or consultant has agreed to be bound by the provisions of the
25 Protective Order by signing a copy of Exhibit A.

26 (h) Court reporters and supporting stenographic, videographic, and clerical
27 personnel taking testimony in connection with this Litigation.

(i) A vendor hired by a party to collect documents, host data, maintain a database of electronic data or perform other work related to the collection, review or production of documents in the case, if the vendor's employees having access to the data or documents sign the certificate attached as Exhibit A.

(j) Any mediator who is assigned to hear this matter, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Protective Order.

(k) Any other person agreed to by the parties.

12. Disclosures of Confidential Information to Experts. Before any disclosure of Confidential Information is made to an expert witness or consultant pursuant to paragraph 11(g) hereof, counsel for the Receiving Party shall obtain a Confidentiality Undertaking signed by the expert or consultant, in the form of Exhibit A attached hereto. Counsel for the Receiving Party obtaining the Confidentiality Undertaking shall supply a copy to counsel for the other Party at the time of the disclosure, except that any Confidentiality Undertaking signed by an expert or consultant who the Receiving Party, in good faith, reasonably does not expect to call as a witness at trial does not need to be disclosed.

13. Filing of Confidential Information with the Court.

(a) As applied to documents, materials or other papers filed with the Court that have been designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” the parties shall seal such documents (or any portion thereof), by following the protocols for electronic filings in this District. If a Party believes that material has been designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” and cannot or should not be sealed, pursuant to the protocols and rules in this District, then the Party wishing to file the materials shall particularly identify the documents or information that it wishes to file to the Producing Party, in writing. The Parties will then meet and confer, in a good faith effort to resolve the dispute. Failing agreement, the Party wishing to file the materials must request a ruling from the

1 Court on whether the Discovery Material in question must be submitted under seal.
2 The Producing Party shall have the burden of justifying that the materials must be
3 submitted under seal. Absent written permission from the Producing Party or a
4 court Order denying a motion to seal, a Receiving Party may not file in the public
5 record any Protected Material.

6 (b) The use of Protected Material during the pre-trial hearing shall be
7 determined by agreement of the parties or by Order of the Court.

8 14. Unintentional Production of Privileged Documents.

9 (a) A Producing Party's disclosure of information or documents that are
10 protected from disclosure by the attorney-client privilege, the attorney work product
11 doctrine, the Bank Examiner Privilege or any other privilege, immunity, or
12 prohibition on disclosure ("Privileged Documents"), shall not constitute a waiver
13 with respect to such Privileged Documents or generally of such privilege, immunity
14 or prohibition, provided that the Producing Party notifies the Receiving Party, in
15 writing, of the production after its discovery of the same. The Producing Party must
16 specifically and individually identify the Privileged Documents which it
17 unintentionally produced to the Receiving Party. Upon written notification of the
18 production of privileged materials (hereafter referred to as "Identified Materials") by
19 the Producing Party, the Receiving Party shall return, destroy, or delete the
20 Identified Materials as requested by the Producing Party. If the Receiving Party has
21 any notes or other work product reflecting the contents of the Identified Materials,
22 the Receiving Party will not review or use those materials unless a court later
23 designates the Identified Materials as not privileged or protected.

24 (i) The Identified Materials shall be deleted from any systems used
25 to house the documents, including document review databases, e-rooms and any
26 other location that stores the documents.

27 (ii) The contents of the Identified Materials shall not be disclosed to
28 anyone who was not already aware of the contents of them before the notice was

1 | made.

6 (iv) The Party returning the Identified Materials may move the Court
7 for an order compelling production of some or all of the material returned or
8 destroyed, but the basis for such a motion may not be the fact or circumstances of
9 the production.

16 (c) This Stipulation and Order does not constitute a concession by any
17 party that any documents are subject to protection by the attorney-client privilege,
18 the work product doctrine or any other potentially applicable privilege or prohibition
19 on production. This agreement also is not intended to waive or limit in any way
20 either party's right to contest any privilege claims that may be asserted with respect
21 to any of the documents produced except to the extent stated in the Stipulation and
22 Order.

23 15. Remedies for Breach. The Parties agree that they would not have an
24 adequate remedy at law in the event that a court of competent jurisdiction
25 determines that there is an actual or threatened breach of this Stipulation and Order
26 by any Party and agree that under such circumstances the Parties will be entitled to
27 specific performance and/or injunctive relief to enforce the terms hereof, in addition
28 to any remedy to which they may be entitled at law or in equity.

1 16. Jurisdiction and Venue. The United States District Court for the
2 Central District is responsible for the interpretation and enforcement of this
3 Stipulation and Order and all disputes concerning any documents, however
4 designated, produced under the protection of this Stipulation and Order.

5 17. Shipping Protected Material. When any Receiving Party ships any
6 Discovery Material to others designated in this Order as authorized to receive
7 Discovery Material, the Receiving Party will encrypt any electronic data (if the
8 Discovery Material is in that format) and supply the password in separate
9 correspondence to the recipient. If the Discovery Material is in hard copy/paper
10 form, the Receiving Party will ship the Discovery Material using secure packaging
11 tape via Federal Express or UPS and retain a tracking number for the materials. If
12 the Receiving party learns at any time that Discovery Material may have been
13 retrieved or viewed by unauthorized parties during shipment, it will immediately
14 notify the Producing Party and take all reasonable measures to retrieve the
15 improperly disclosed Discovery Material.

16 18. Joinder of Additional Parties. In the event that additional parties join or
17 are joined in this Litigation, they shall not have access to Confidential Information
18 until the newly joined party, by its counsel, has executed and filed with the Court
19 the newly joined Party's agreement to be fully bound by this Stipulation and order.

20 19. Effective Date of Stipulation. The parties agree to be bound by the
21 terms of this Stipulation and Order pending the entry by the Court of this Stipulation
22 and Order, and any violation of its terms shall be subject to the same penalties and
23 sanctions, as if this Stipulation and Order had been entered by the Court.

24 20. Modifications, Waivers and/or Amendments to this Stipulation and
25 Order. This Stipulation and Order may be changed by further order of this Court and
26 is without prejudice to the right of a Party to move for relief from any of its
27 provisions, or to seek or agree to different or additional protection for any particular
28 material or information. All modifications of, waivers of, and amendments to this

1 Stipulation and Order must be in writing and signed by, or on behalf of, the Parties.

2 21. Conclusion of Litigation.

3 (a) This stipulation and Order shall continue to be binding after the
4 conclusion of this litigation, except that (a) there shall be no restriction on
5 documents that are used as exhibits in Court (unless such exhibits were filed under
6 seal); and (b) that a Party may seek the written permission of the Producing Party or
7 further order of the Court with respect to dissolution or modification of the
8 Stipulation and Order.

9 (b) Within sixty (60) days after the final termination of this Litigation by
10 settlement or exhaustion of all appeals, all Confidential Information produced or
11 designated and all reproductions thereof, shall be returned to the Producing Party or
12 shall be destroyed, at the option of the Receiving Party, including copies of
13 electronic documents maintained in databases or other electronic locations. In the
14 event the physical objects and documents are to be destroyed, the Receiving Party
15 shall certify in writing within sixty (60) days of the final termination of this
16 Litigation that it has undertaken its best efforts to destroy such physical objects and
17 documents, and that such physical objects and documents have been destroyed to
18 the best of its knowledge.

19 (c) Notwithstanding anything to the contrary, counsel of record for the
20 Parties may retain copies of documents constituting work-product, copies of
21 pleadings, motion papers, discovery responses, deposition transcripts and deposition
22 and trial exhibits. To the extent that persons retain documents containing
23 Confidential Information upon the final termination of this Litigation, said persons
24 shall certify in writing within sixty (60) days of the final termination of this
25 Litigation that they will maintain the confidentiality of this Confidential Information
26 in accordance with the terms of this Stipulation and Order. Nothing in this
27 paragraph shall be construed to require a Receiving Party to destroy Confidential
28 Information retained on back-up tapes or to require the Receiving Party to take

1 unreasonably expensive or burdensome measures to effectuate the destruction of
2 Confidential Information.

3
4 **GOOD CAUSE SHOWN BY THE PARTIES' STIPULATION,**
5 **IT IS SO ORDERED.**

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8 DATED: November 4, 2024



9
10 HON. PEDRO V. CASTILLO
11 United States Magistrate Judge

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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of _____
4 [print or type full address], declare under penalty of perjury that I have read in its
5 entirety and understand the Stipulated Protective Order that was issued by the
6 United States District Court for the Central District of California on
7 _____ [date] in the case of *Harvest Logistics LLC vs.*
8 *Bank of America Corp, dba Bank of American N.A.*, Central District of California
9 case number 2:24-cv-08188. I agree to comply with and to be bound by all the terms
10 of this Stipulated Protective Order and I understand and acknowledge that failure to
11 so comply could expose me to sanctions and punishment in the nature of contempt. I
12 solemnly promise that I will not disclose in any manner any information or item that
13 is subject to this Stipulated Protective Order to any person or entity except in strict
14 compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action.

19 I hereby appoint _____ [print or type full name] of
20 _____ [print or type full address and telephone
21 number] as my California agent for service of process in connection with this action
22 or any proceedings related to enforcement of this Stipulated Protective Order.

23
24 Date: _____

25 City and State where sworn and signed: _____

26 Printed name: _____

27 Signature: _____